

MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY

JUNE 10, 2004

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Chairman Marilyn Silcock, Pharm D. called the meeting to order at 8:00 A.M. Also in attendance were board members Kitty Gurnsey; Mike Merrill R. Ph.; Frank Casabonne R.Ph. and Dwayne Sheffler R.Ph. Also present were Richard Markuson, Executive Director; Fred Collings, Senior Investigator; Jan Atkinson, Senior Compliance Officer; Kent Nelson, Deputy Attorney General and Cheri Bush, Deputy Attorney General.

Frank Casabonne made a motion to accept the board minutes for the March 5, 2004 minutes with a final correction to reflect the NABP meeting was in April of 2004. Mike Merrill seconded the motion with the correction to be noted. Motion unanimously carried.

Regarding citation #1195 issued to Katrina Brown, registered pharmacy technician: Mike Merrill made a motion to fine the technician \$50.00 and place a letter of reprimand in her file. Frank Casabonne seconded the motion. Motion unanimously carried.

Regarding citation #1198 issued to Lonnie Braun, registered pharmacy technician: Kitty Gurnsey made a motion to fine the technician \$50.00 and place a letter of reprimand in his file. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation # 1197 issued to Cheri Gilbreth, registered pharmacy technician: Kitty Gurnsey made a motion to fine the technician \$50.00 and place a letter of reprimand in her file. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation #1361 issued to Rosa Salcido, registered pharmacy technician: Kitty Gurnsey made a motion to fine the technician \$50.00 and place a letter of reprimand in her file. Mike Merrill seconded the motion. Motion unanimously carried.

The board members also requested that board staff put a reminder in the September 2004 NABP newsletter clarifying the duties for pharmacy clerks and cashiers and reminding the pharmacist-in-charge of his/her responsibilities to assure that those duties are followed and technicians are wearing their name badges and identifying themselves on the phone.

Regarding citation #1193 issued to Andrea Ferguson, registered pharmacy technician: Frank Casabonne made a motion to fine the technician \$200.00 and place a letter of reprimand in her file. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation #1196 issued to Daniel Holt PIC: Mike Merrill made a motion to fine the pharmacist-in-charge \$100.00 and place a letter of reprimand in his file. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Regarding citation #1194 issued to Janet Mayo PIC: Kitty Gurnsey made a motion to fine the pharmacist-in-charge \$100.00 and place a letter of reprimand in her file. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation #1192 issued to Lisa Cowley PIC: Dwayne Sheffler made a motion to fine the pharmacist-in-charge \$500.00 and send a letter reminding Ms. Cowley of the serious nature of this violation and requesting that she address these issues with her technician in an overall review of the pharmacy's policies and procedures. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Regarding citation #1191 issued to Mark Knight R.Ph.: Mike Merrill made a motion to fine M. Knight \$500.00 and place a letter of reprimand in his file. Frank Casabonne seconded the motion. Kitty Gurnsey voted no on the motion. Motion carried.

Regarding citation #2653 issued to Andrea Lapka PIC: Kitty Gurnsey made a motion to fine the pharmacist-in-charge \$50.00 and place a letter of reprimand in her file. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation #1362 issued to Bruce Reeder PIC: Kitty Gurnsey made a motion to fine the pharmacist-in-charge \$100.00 and place a letter of reprimand in his file. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation #1283 issued to Bruce Barnes PIC: Kitty Gurnsey made a motion to fine the pharmacist-in-charge \$100.00 and place a letter of reprimand in his file. Dwayne Sheffler seconded the motion. Frank Casabonne abstained from voting on the motion. Motion carried.

Chairperson Marilyn Silcock requested further clarification from Kent Nelson, Deputy Attorney General, regarding Rule 252.09 and 252.10. At issue is rural hospital pharmacists wanting to allow pharmacy technicians to remain in the pharmacy when the pharmacist is required to leave the pharmacy unattended for unspecified periods of time. The board also requested that board staff be involved in discussing the possibility of interpreting the existing rule or embarking upon rulemaking in order to clarify this issue.

Regarding the matter of the pharmacist license of John Letter III: Mike Merrill made a motion to extend Mr. Letter's probationary requirements for an additional two years, including quarterly UAs and the payment of all fines and/or registration fees and verification of all required CE documentation to be completed by June 30, 2004. Frank Casabonne seconded the motion. Motion unanimously carried.

Regarding Ned Gregorio's request for reinstatement of his pharmacist controlled substance registration: Frank Casabonne made a motion to grant Mr. Gregorio's request for reinstatement of his controlled substance registration. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Regarding the Notice of Intent to Take Default in the matter of the license of Brian Anderson R.Ph.: Motion by Mike Merrill to revoke Mr. Anderson's license to practice pharmacy and his controlled substance registration. Kitty Gurnsey seconded the motion. Motion unanimously

carried. Chairperson Marilyn Silcock also directed Cheri Bush to draft a board order advising Mr. Anderson of the board's intent.

Regarding the matter of Cheryl Glacy, pharmacy technician, Kitty Gurnsey made a motion to revoke her technician registration T2642. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding the matter of Mahlah J. Smith's voluntary surrender of her pharmacy technician registration T2107: Frank Casabonne made a motion to revoke her technician registration. Dwayne Sheffler seconded the motion. Motion unanimously carried.

Regarding the matter of Laura Staggs Ellis's voluntary surrender of her pharmacy technician registration T-1958: Mike Merrill made a motion to revoke her technician registration. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Regarding the matter of Jamie Patton's voluntary surrender of her pharmacy technician registration T2096: Kitty Gurnsey made a motion to revoke her technician registration. Dwayne Sheffler seconded the motion. Motion unanimously carried.

The board members reviewed a letter from Dr. Moser addressing misleading pharmacy prescription labels that identify physician assistants and nurse practitioners as "Dr.". In discussions with several pharmacy chains and independents it was determined that there are several different software programs and although some do print the designation "Dr." the majority of programs used in Idaho allow the practitioner designation to be added at the end of the name, such as "PA" or "NP". Mr. Markuson will contact Dr. Moser and convey the board's findings.

During the morning session board attorney Kent Nelson verified, pursuant to a phone call, that the governor had signed the temporary rule increasing the technician to pharmacist ratio to 3:1.

During legislation and rule review the board members discussed whether there was a need for new rulemaking to address telepharmacy involving pharmacy technicians. Board members determined that there appeared to be adequate coverage without proposing new rules at this time. Following the denial by the governor's office of the proposed temporary rule for a telepharmacy pilot program Mick Markuson and Kent Nelson will propose the rule as previously drafted for the temporary rule. Kent Nelson, Mick Markuson and board staff will review existing rules and possibly propose new rules to allow technicians to remain in a hospital pharmacy during a pharmacist's absence. In reviewing proposed rule changes the board directed staff to keep in mind how any changes might also affect limited service and community pharmacies as well. Legislation will be proposed to schedule both tramadol and carisoprodol and the board agreed that they would support outside legislation if it were proposed, to restrict the sale of pseudoephedrine to behind the pharmacy counter. With the implementation of FDA restrictions on the sale of dietary supplements containing ephedrine alkaloids (ephedra), all labeling requirements for ephedrine alkaloids that were added to Rule 158.02 will be eliminated. Cheri Bush also proposed suggestions that would better define the current parameters for evoking disciplinary action.

Fred Collings also reported to the board on the approved acquisition of a new investigative assistant and the current operations that are underway with assistance from the federal grant monies, to move the drug tracking reporting to in-house collection. Mr. Collings also advised the board members that this change would eventually require more frequent reporting by the pharmacies and reduce the data collection time that is now required with Atlantic Associates.

Regarding the matter of the pharmacy technician registration of Sara Beth Cummings: Mike Merrill made a motion to extend the conditions of her current probation, including random UAs for another year, from September 26, 2004 to Sept 25, 2005. Kitty Gurnsey seconded the motion. Motion unanimously carried.

In Kent Nelson's analysis of the federal 340B Drug Pricing Program, it was determined that the existing program is in the rule framework of existing board rules when appropriate documentation and records for drugs purchased and dispensed remain in the participating pharmacy. In addition, Mr. Nelson emphasized that the business relationship structured by the 340B Program cannot interfere with the pharmacist's professional judgment in any way and the pharmacy would still be required to follow all current board rules, inventory requirements and dispensing restrictions for all controlled substances in the participating pharmacy.

At 2:45 P.M. Mike Merrill moved to go into Executive Session for matters concerning exempt public records. Chairperson Marilyn Silcock identified Idaho code Section 67-2345(d) to authorize the session. Dwayne Sheffler seconded the motion. Motion unanimously carried. At 3:05 P.M. Kitty Gurnsey moved to come out of Executive Session. Mike Merrill seconded the motion. Motion unanimously carried.

Kitty Gurnsey made a motion to give Mr. Markuson a pay increase of 2%. Mike Merrill seconded the motion. Motion unanimously carried.

Upcoming meetings of interest were as follows: the next scheduled Board of Pharmacy meeting: August 20, 2004 in Boise. District VII & VIII Meeting: October 27-30th in Las Vegas, NV. The NACDS Pharmacy & Technology Conference: August 28-Sept.1, 2004. Upcoming NABP ACE Committee Meetings: July and September 2004.

During the election of officers Mike Merrill made the motion to elect Frank Casabonne to position of chairperson and Dwayne Sheffler to the position of vice-chairman of the board. Kitty Gurnsey seconded the motion. Motion passed by unanimous consent.

Meeting adjourned.

Jan Atkinson respectfully submits these minutes of the Idaho board of Pharmacy.

Chairperson

Member

Vice-Chairperson

Member

Executive Director

Member